Joseph Guy Maiorano, Esq. (SBN 113876)
The Law Offices of Joseph G. Maiorano
402 West Broadway, 27th Floor
San Diego, California 92101
Telephone: (619)230-1612
Fax: (619) 230-1839

Counsel for Respondent
DAMON ABNOS

**UNITED STATES DISTRICT COURT FOR THE**

**SOUTHERN DISTRICT OF CALIFORNIA**

| | |
|---|---|
| SELTZER CAPLAN McMAHON VITEK, a Law Corporation,<br><br>Petitioner,<br><br>v.<br><br>DAMON ABNOS, an individual,<br><br>Respondent. | Case No. 3:08-cv-00201-WQH-WMc<br><br>**[PROPOSED] SUPPLEMENTAL NOTICE OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT UNDER 28 U.S.C. §§ 1441, 1446, 1332(a)**<br><br>**(DIVERSITY OF CITIZENSHIP JURISDICTION)** |

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA AND TO PETITIONER AND THEIR COUNSEL OF RECORD, SELTZER CAPLAN McMAHON VITEK, A LAW CORPORATION:

PLEASE TAKE NOTICE THAT Respondent DAMON ABNOS hereby supplements his Notice of Removal as described below.

1. On February 1, 2008, Respondent filed his Notice of Removal of Civil Action to the United States District Court under 28 U.S.C. §§ 1441, 1446 and 1332(a).

2. Respondent attached both his Petition to Vacate Arbitration Award filed in the United States District Court for the Southern District of California (Case No. 08 CV 0058 DMS WMc) as Exhibit "B", and Petitioner's Petition to Confirm Contractual Arbitration Award filed in the previously dismissed State Court action (Case No. GIC 864098) as Exhibit "C".

3. Because the underlying case (GIC 864098) was dismissed and the Petitions to Confirm and to Vacate the Arbitration Award comprise a new action, Respondent is informed and believes that Exhibits "B" and "C" constitute all process, pleadings, and orders received in this action.

4. In attaching Exhibit "C" to the original Notice of Removal of Civil Action, Respondent inadvertently neglected to attach a complete copy, which would have included Petitioner's Notice of Hearing and Petition, alerting Respondent to the date and time of the hearing on his Petition to Confirm the Arbitration Award.

5. A copy of the Notice of Hearing and Petition which was inadvertently omitted in the original Notice of Removal is attached hereto as Exhibit "F".

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7. Notice of this supplemental removal is being given to both Petitioner and to the Clerk of the Court of San Diego County Superior Court. True and correct copies of these notices are attached as Exhibits "G" and "H." Proof of service of the Supplemental Notice to Adverse Party of Removal to Federal Court will be filed with this Court immediately after the Superior Court filing is accomplished.

Dated: April 11, 2008

**Law Offices of Joseph G. Maiorano**

Joseph Guy Maiorano
Attorney for DAMON ABNOS

# Exhibit "F"

COPY

FILED
CIVIL BUSINESS OFFICE 7
CENTRAL DIVISION

08 JAN 17 PM 2:06

CLERK SUPERIOR COURT
SAN DIEGO COUNTY, CA

Christopher L. Ludmer, Esq. (SBN 208411)
SELTZER CAPLAN McMAHON VITEK
A Law Corporation
750 B Street, 2100 Symphony Towers
San Diego, California 92101-8177
Telephone: (619) 685-3003
Facsimile: (619) 685-3100

Attorneys for Defendant LEE HEJMANOWSKI and SELTZER CAPLAN McMAHON VITEK and Cross-Complainant SELTZER CAPLAN McMAHON VITEK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
(CENTRAL DIVISION)

| | |
|---|---|
| DAMON ABNOS, an individual,<br>Plaintiff,<br>vs.<br>LEE HEJMANOWSKI, an individual; SELTZER CAPLAN McMAHON VITEK, a Law Corporation; and DOES 1 to 10,<br>Defendants.<br><br>AND RELATED CROSS-ACTION | CASE NO. GIC 864098<br><br>**NOTICE OF PETITION AND PETITION TO CONFIRM ARBITRATION AWARD**<br><br>Judge: Hon. William R. Nevitt, Jr.<br>Date: February 29, 2008<br>Time: 1:30 p.m.<br>Dept.: 64 |

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on February 29, 2008, at 1:30 p.m., or as soon thereafter as this matter can be heard, in Department 64 of the above-entitled court, Defendants LEE HEJMANOWSKI and SELTZER CAPLAN McMAHON VITEK, and Cross-Complainant SELZTER CAPLAN McMAHON VITEK, will and hereby do petition to confirm the arbitration award dated December 26, 2007, by the Hon. Anita Rae Shapiro (Ret.).

The petition will be based upon this notice and petition (previously filed January 8, 2008); the arbitration award dated December 26, 2007; the arbitration agreement between the parties dated

November 23, 2003; the stipulation of the parties for binding arbitration dated November 16, 2006; the pleadings, records and files in this action; and such further oral argument and documentary evidence and argument may be presented at or before the hearing.

Dated: January 17, 2008

SELTZER CAPLAN MCMAHON VITEK
A Law Corporation

By: ______________________
Christopher L. Ludmer
ATTORNEYS FOR Defendants LEE HEJMANOWSKI and SELTZER CAPLAN McMAHON VITEK

COPY

FILED
CIVIL BUSINESS OFFICE 7
CENTRAL DIVISION

08 JAN 17 PM 2:06

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

Christopher L. Ludmer, Esq. (SBN 208411)
SELTZER CAPLAN MCMAHON VITEK
A Law Corporation
750 B Street, 2100 Symphony Towers
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Telephone: (619) 685-3003
Facsimile: (619) 685-3100

Attorneys for Defendants LEE HEJMANOWSKI and SELTZER CAPLAN McMAHON VITEK and Cross-Complainant SELTZER CAPLAN McMAHON VITEK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
(CENTRAL DIVISION)

| | |
|---|---|
| DAMON ABNOS. Plaintiff, vs. LEE HEJMANOWSKI, ET AL. Defendants. | CASE NO. GIC 864098 |
| AND RELATED CROSS-ACTION | **PROOF OF PERSONAL SERVICE** |

(1) I am over 18 years of age and not a party to this action.

(2) I served the following documents:

**NOTICE OF PETITION AND PETITION TO CONFIRM ARBITRATION AWARD; PETITION TO CONFIRM ARBITRATION AWARD**

(3) I caused such documents to be delivered by hand to the office of the addressee by Knox Attorney Service

(a) Name: Joseph G. Maiorano, Esq.

(b) Address: 402 West Broadway, 27th Floor, San Diego, California 92101

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Ex. E; Pg. 3

(4) I am employed in the County of San Diego, State of California. My business address is 750 B Street, Suite 2100, San Diego, California 92101.

(5) I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Dated: January 17, 2008

Terri A. Zendejas

# Exhibit "G"

Joseph Guy Maiorano, Esq. (SBN 113876)
The Law Offices of Joseph G. Maiorano
402 West Broadway, 27th Floor
San Diego, California 92101
Telephone: (619)230-1612
Fax: (619) 230-1839

Counsel for Respondent
DAMON ABNOS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SAN DIEGO**

| | |
|---|---|
| SELTZER CAPLAN McMAHON VITEK, a Law Corporation,<br><br>Petitioner,<br><br>v.<br><br>DAMON ABNOS, an individual,<br><br>Respondent. | Case No. GIC 864098<br><br>**[PROPOSED] SUPPLEMENTAL NOTICE TO ADVERSE PARTY OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT**<br><br>Judge William R. Nevitt, Jr.<br><br>Dept. 64 |

Ex. 6; Pg. 1

TO PETITIONER SELTZER CAPLAN McMAHON VITEK, a Law Corporation:

PLEASE TAKE NOTICE THAT a Supplemental Notice of Removal of this action was filed in the United States District Court for the Southern District of California on April 11, 2008. A copy of said Supplemental Notice of Removal and supporting exhibits are attached to this Notice, and served and filed herewith.

Dated: April 11, 2008

**Law Offices of Joseph G. Maiorano**

Joseph Guy Maiorano
Attorney for DAMON ABNOS

Ex. 6; Pg. 2

*Seltzer Caplan v. Abnos*
San Diego Superior Court Case No.GIC864098

**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to this action. I served the following:

**1) SUPPLEMENTAL NOTICE TO STATE COURT OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT.**
**2) [PROPOSED] SUPPLEMENTAL NOTICE TO ADVERSE PARTY OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT.**

On the parties in this action addressed as follows:

Christopher Ludmer
Seltzer Caplan McMahon Vitek
750 B Street, Suite 2100
San Diego, CA 92101
Tel: (619) 685-3122

☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth above on this date.

☑ by placing the document(s) listed above in a sealed envelope with postage fully prepaid, in the United States mail at 402 West Broadway, 27th Floor, San Diego, California, addressed as set forth above on this date.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth above on this date.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct. Executed this 11th day of April, 2008.

[signature]
Anne Donovan

# Exhibit “H”

Joseph Guy Maiorano, Esq. (SBN 113876)
The Law Offices of Joseph G. Maiorano
402 West Broadway, 27th Floor
San Diego, California 92101
Telephone: (619)230-1612
Fax: (619) 230-1839

Counsel for Respondent
DAMON ABNOS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SAN DIEGO**

| | |
|---|---|
| SELTZER CAPLAN McMAHON VITEK, a Law Corporation,<br><br>Petitioner,<br><br>v.<br><br>DAMON ABNOS, an individual,<br><br>Respondent. | Case No. GIC 864098<br><br>**SUPPLEMENTAL NOTICE TO STATE COURT OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT**<br><br>Judge William R. Nevitt, Jr.<br><br>Dept. 64 |

Ex. H ; Pg. 1

TO THE CLERK OF THE SUPERIOR COURT FOR THE COUNTY OF SAN DIEGO:

Attached hereto as Exhibit "1" is a true and correct copy of the [PROPOSED] SUPPLEMENTAL NOTICE OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT UNDER 28 U.S.C. SECTIONS 1441, 1446, 1332(a) ("Supplemental Notice of Removal"). The original Supplemental Notice of Removal was filed with the United States District Court for the Southern District of California with the attached exhibits on April 11, 2008.

Dated: April 11, 2008

**Law Offices of Joseph G. Maiorano**

Joseph Guy Maiorano
Attorney for DAMON ABNOS

Ex. H ; Pg. 2

*Seltzer Caplan v. Abnos*
San Diego Superior Court Case No.GIC864098

**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to this action. I served the following:

**1) SUPPLEMENTAL NOTICE TO STATE COURT OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT.**
**2) [PROPOSED] SUPPLEMENTAL NOTICE TO ADVERSE PARTY OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT.**

On the parties in this action addressed as follows:

Christopher Ludmer
Seltzer Caplan McMahon Vitek
750 B Street, Suite 2100
San Diego, CA 92101
Tel: (619) 685-3122

☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth above on this date.

☑ by placing the document(s) listed above in a sealed envelope with postage fully prepaid, in the United States mail at 402 West Broadway, 27th Floor, San Diego, California, addressed as set forth above on this date.

☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth above on this date.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct. Executed this 11th day of April, 2008.

[signature]
Anne Donovan